



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,265	02/01/2001	Paul Clark Blalock	82001-0387	7230
24633	7590	10/17/2005	EXAMINER	
HOGAN & HARTSON LLP IP GROUP, COLUMBIA SQUARE 555 THIRTEENTH STREET, N.W. WASHINGTON, DC 20004			JARRETT, SCOTT L	
		ART UNIT	PAPER NUMBER	
		3623		

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/775,265	BLALOCK ET AL.	
	Examiner	Art Unit	
	Scott L. Jarrett	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 July 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 65-102 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 65-102 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 April 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Final Office Action is responsive to Applicant's amendment filed July 27, 2005. Applicant's amendment canceled claims 1-64 and added new claims 65-102. Currently claims 65-102 are pending.

Response to Amendment

2. Applicant's amendment filed on July 27, 2005 with respect to canceled claims 1-64 and new claims 65-102 necessitated new ground(s) of rejection.

The USC 112 (2) rejection of claim 20 cited in the first office action is withdrawn in response to Applicant's cancellation of claim 20.

The USC 101 rejection of Claims 1-26 cited in the first office action is withdrawn in response to Applicant's cancellation of claims 1-26.

Response to Arguments

3. Applicant's arguments with respect to claims canceled claims 1-64 and new claims 65-102 have been considered but are moot in view of the new ground(s) of rejection.

It is noted that the applicant did not challenge the Official Notice(s) cited in the First Office Action therefore those statements as presented are herein after prior art.

Specifically it has been established that it was old and well known in the art at the time of the invention to use Freight of All Kinds information (matrix) as part of the negotiation of transportation and to include any and all information necessary for the complete and concise execution of negotiations between buyers (shippers) and sellers (carriers).

Title

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: A Transportation Services Marketplace Having Multilevel Private/Public Auctions and Preferred Trading Partners.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 65-102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barni et al., U.S. Patent No. 6,064,981 in view of Sheehan et al., U.S. Patent Publication No. 2001/0049647.

Regarding Claims 65 and 86 Barni et al. teach an Internet-based electronic market (portal, marketplace, network, etc.) for negotiating transportation services (contracts, agreements, capacity, etc.; e.g. negotiating contracts for one or more transportation lanes/regions/zones/routes) comprising (Abstract):

- enabling buyers and sellers to conduct auctions (e.g. schedule transportation services, capacity, place bids, etc.) via an auction subsystem (system, component, module, code, etc.; Column 1, Lines 9-20; Column 2, Lines 3-28; Figures 2-12);
- auctions include buyer and seller auctions (bids; Columns 6-7; Figures 7-12);
- enabling sellers to post (publish, upload) and buyers to view (access, download) quotes (rates, bids, catalogs, etc.) for one or more transportation services (lanes, routes, modes, etc.) lanes via a catalog subsystem (publishing, content; Column 2, Lines 3-28; Columns 6-7; Figures 2-12); and

- enabling buyers and sellers to communicate electronically via the system (e.g. post/review bids/auctions; Column 6, Lines 1-32; Column 7, Lines 38-54; Figures 2-12).

Barni et al. does not expressly teach that the transportation marketplace enables users to designate other users as preferred trading partners or subsequently optionally making quotes/rates available to only preferred trading partners as claimed.

Sheehan et al. teach enabling users (buyers, sellers, etc.) to designate (select, invite, etc.) other users as preferred trading (business, auction, etc.) partners (users, group, etc.; Paragraphs 0009, 0016, 0019; Figure 1, Element 110) and making auctions available (rates, quotes, etc.; Paragraphs 0009, 0018-0019, 0027) only to preferred users (i.e. preferential access), in an analogous art of auction management, for the purposes of enabling users (sellers, buyers) to “pre-register and pre-qualify one another so that surplus merchandise can find a quick and ready market” (Paragraph 0008).

More generally Sheehan et al. teach an Internet-based multilevel private and public auction marketplace wherein:

- users conduct staged (multilevel) auctions that can progress from private (auctions restricted to preferred trading partners) to public auctions based on one or more auction rules/criteria (Paragraphs 0018-0019, 0026-0027, 0030, 0033, 0035);
- the system integrates/synchronizes with purchase-order fulfillment systems (Paragraphs 0021, 0025; Figure 1, Element 114) to automatically generate purchase orders and other fulfillment related documents/messages; and

- notifies users, via email, of auctions (Paragraph 0020).

It would have been obvious to one skilled in the art at the time of the invention that the transportation marketplace system and method as taught by Barni et al. would have benefited from enabling users to designate preferred trading partners as part of a multilevel (round, tier, session, etc.) auction system in view of the teachings of Sheehan et al., the resultant system enabling users to conduct negotiations/auctions with preferred (e.g. pre-registered, pre-qualified, selected, etc.) trading partners (Sheehan et al.: Paragraphs 0008-0009).

Further regarding Claim 65, the electronic market as claimed is merely *adapted to perform/provide one or more actions* however the system does not actually perform the one or more actions. For the purposes of examination examiner assumes the applicant will amend the claim to recite that electronic market actually performs the plurality of actions.

For example Claim 65 recites the limitation "...auction transaction system being adapted to enable..." buyers and sellers to conduct auctions however the system as claimed does not actually conduct auctions.

Further the phrases "auction transaction system" and "catalog transaction system" represent non-functional descriptive material since it is obvious in light of the prior art and to one skilled in the art that where (in what section, portion, subsystem, routine, code, segment, object, etc.) the calculations are performed by the system or it's

subsystems (components, sections, code, routines, etc.) does not change the overall functionality of the system.

Regarding Claim 66 Barni et al. teach an electronic market system and method wherein the system further enables (allows) users (buyers, sellers) to execute (complete, confirm, transact, etc.) negotiated shipping (transportation, freight, logistics, etc.) transactions (contracts, auctions, bids, RFQs, etc.; Column 2, Lines 3-28; Column 6, Lines 18-65; Column 7, Lines 38-54; Figures 5, 9, 12).

Regarding Claim 67 Barni et al. teach an electronic market system and method wherein the system:

- enables (allows) buyers to identify (search, find, locate, etc.) shipping (transportation, logistics, carrier, etc.) services (products, offers, quotes, etc.) from posted quotes (Column 5, Lines 15-68; Figures 4, 11); and
- enables the user (buyer) to send electronic purchase orders (offers, bids, etc.) to the seller associated with the identified quote (Column 5, Lines 15-68; Column 6, Lines 1-18; Figures 4-5, 9, 11-12).

Regarding Claims 68 and 90-91 Barni et al. teach transportation marketplace system and method further comprising:

- enabling a auction initiator (originator, facilitator, buyer, seller, etc.) to identify winning bids (Columns 6-7; Figures 2-12); and

- automatically sending electric offers (tender offers, bid acceptance, etc.) to auction initiator detailing the winning bids/bidders (Column 6, Lines 14-17; Column 7, Lines 4-11 and 38-53).

Regarding Claim 69 Barni et al. teach an electronic transportation market system and method wherein the system enables auction initiators to accept or decline offers (tender offers, bids, etc.; Columns 6-7; Figures 5, 9, 12).

Regarding Claim 70 Barni et al. teach that the online transportation marketplace system and method enables users (buyers, sellers) to view (review, access, etc.) a plurality of information related to orders/shipments including but not limited to tracking information such as an estimated arrival time and/or a tracking number (Column 5, Lines 62-68).

Barni et al. does not expressly teach sending/receiving shipment/order status information (scheduled, in transit) as claimed.

Official notice is taken that providing (sending, receiving, etc.) order/shipment status information (i.e. order tracking/monitoring) is old and very well known in the art for providing a convenient mechanism for users to track/monitor their order (progress, status, etc.).

It would have been obvious to one skilled in the art at the time of the invention that the transportation marketplace as taught by Barni et al. would have benefited from sending/receiving a plurality of order/purchase status/progress information in view of the teachings of official notice; the resultant system enabling users to conveniently track/monitor their orders (e.g. receive status/update messages regarding scheduled and in transit shipments).

Regarding Claim 71 Barni et al. teach transportation marketplace wherein the systems initiates (processes, starts, acts upon, calls, sends, etc.) commands (actions, messages, processes, calls, etc.) to a remote private network of a selected user (intranet, Column 3, Lines 35-48; Column 6, Lines 14-17; Column 7, Lines 4-11 and 38-53).

Regarding Claim 72 Barni e al. teach transportation marketplace wherein the initiated commands (messages) contain information for completing the transaction including but not limited to the financial terms of the auction/negotiation (Column 6, Lines 14-17; Column 7, Lines 4-11 and 38-53)

Barni et al. does not expressly teach that the initiated commands *trigger* account (financial) transactions regarding the shipments/orders as claimed.

Sheehan et al. teach that initiated commands *trigger* account (financial) transactions regarding the orders/negotiations (purchasing, payment, settlement) in an analogous art of auction systems and method for the purposes of synchronizing purchase-order fulfillment activities (Paragraphs 0021, 0025).

It would have been obvious to one skilled in the art at the time of the invention that the transportation marketplace system and method as taught by Barni et al. would have benefited from integrating with the participants purchasing, logistics and other enterprise systems in view of the teachings of Sheen et al.; the resultant system synchronizing/integrating information related to the negotiated orders (e.g. scheduled and in transit shipments; Sheehan et al.: Paragraphs 0021, 0025-0026).

Regarding Claim 73 Barni et al. teach transportation marketplace wherein the initiated command comprise email messages sent individuals associated with the selected user (buyer, seller) and contain status information based upon the role of the individual receiving the message (Column 6, Lines 14-17; Column 7, Lines 4-11 and 38-53).

Regarding Claims 74 and 87 Barni et al. does not teach that the transportation marketplace enables users to designate other users as preferred trading partners or subsequently enabling designated users to participate in (bid) non-public (private,

limited, restrictive, etc.) and public auctions while non-preferred users/trading partners can only bid in public auctions as claimed.

Sheehan et al. teach enabling users to designate other users as preferred trading partners (suppliers, users, pre-qualified, etc.) as well as subsequently enabling designated users to participate in (bid) non-public (private, limited, restricted, etc.) and public auctions while non-preferred users/trading partners can only bid in public auctions, in an analogous art of auction systems and methods for the purposes of facilitating pricing discovery and/or higher returns (Paragraphs 0023-0027).

It would have been obvious to one skilled in the art at the time of the invention that the transportation marketplace system and method as taught by Barni et al. would have benefited from enabling users to designate preferred trading partners as part of a multilevel (round, tier, session, etc.) auction system in view of the teachings of Sheehan et al., the resultant system enabling users to conduct private and/or public negotiations/auctions with preferred (e.g. pre-registered, pre-qualified, selected, etc.) trading partners (Sheehan et al.: Paragraphs 0008-0009) as well as facilitating pricing discovery and/or higher returns by expanding the number of buyers and/or merchandise (Sheehan et al.: Paragraph 0027).

Regarding Claim 75 Barni et al. does not expressly teach conducting multilevel auctions as claimed.

Sheehan et al. teach enabling the auction initiator to conduct a multilevel (stage, phase, round, echelon, layer, tier, etc.) auction wherein the first level is a non-public/private auction and the final level is a public auction, in an analogous art of auction systems and methods for the purposes of facilitating pricing discovery and/or higher returns (Paragraphs 0023-0027).

It would have been obvious to one skilled in the art at the time of the invention that the transportation marketplace system and method as taught by Barni et al. would have benefited from enabling users to designate preferred trading partners as part of a multilevel (round, tier, session, etc.) auction system that successively broadens the auction participants in view of the teachings of Sheehan et al., the resultant system enabling users to conduct negotiations/auctions with preferred (e.g. pre-registered, pre-qualified, selected, etc.) trading partners (Sheehan et al.: Paragraphs 0008-0009) as well as facilitating pricing discovery and/or higher returns (Sheehan et al.: Paragraph 0027).

Regarding Claims 76 and 89 Barni et al. does not teach conducting a multilevel auction as claimed.

Sheehan et al. teach enabling the auction initiator to conduct a private multilevel auction wherein the preferred trading partners differ for each level (round, stage) of the

private auction, in an analogous art of auction system and methods for the purposes of facilitating pricing discovery and/or higher returns (Paragraphs 0023-0027).

It would have been obvious to one skilled in the art at the time of the invention that the transportation marketplace system and method as taught by Barni et al. would have benefited from enabling users to designate preferred trading partners for each level of a multilevel (round, tier, session, etc.) auction system in view of the teachings of Sheehan et al., the resultant system enabling users to conduct negotiations/auctions with preferred (e.g. pre-registered, pre-qualified, selected, etc.) trading partners (Sheehan et al.: Paragraphs 0008-0009) as well as facilitating pricing discovery and/or higher returns (Sheehan et al.: Paragraph 0027).

Regarding Claims 77 and 88 Barni et al. teach a public/semi-private transportation marketplace as discussed above.

Barni et al. does not teach a multilevel auction as claimed.

Sheehan et al. teach that the auction initiator (creator) can (optionally) transform (convert, change, etc.) the private auction to a public auction if the preferred trading partners submit no winning bid (Paragraphs 0018, 0023-0027) in an analogous art of auction systems and methods for the purposes of facilitating pricing discovery and/or higher returns (Paragraph 0027).

It would have been obvious to one skilled in the art at the time of the invention that the transportation marketplace system and method as taught by Barni et al. would have benefited from providing users with a multilevel (stage) auction capability wherein proceeding auction rounds/levels successively "open up" the auction to a wider/larger number of participants based on one or more criteria, such as no winning bid received, in view of the teachings of Sheehan et al.; the resultant system facilitating pricing discovery and/or higher returns (Sheehan et al.: Paragraph 0027).

Regarding Claims 78-79 Barni et al. teach an Internet-based transportation marketplace wherein the system is web/Internet based (Internet communication, electronic mail, web pages, interactive web site, etc.; Abstract; Column 1, Lines 23-68; Column 3, Lines 13-65; Figures 1, 4).

Regarding Claim 80 Barni et al. teach that the online transportation marketplace provides a plurality of information related to bids/rates including but not limited to tracking information such as an estimated arrival time and/or a tracking number (Column 5, Lines 62-68).

Regarding Claim 81 Barni et al. teach transportation marketplace system and method wherein the system enables the communication with private computer networks (Intranets; Column 3, Lines 35-47).

Further regarding Claim 81, the electronic market as claimed is merely *adapted to* electronic communication with private computer networks however the system does not actually communicate with private computer networks. For the purposes of examination examiner assumes the applicant will amend the claim to recite that electronic market actually communicates with private computer networks.

Regarding Claims 82-83 Barni et al. teach a transportation marketplace system and method wherein the system uploads and downloads (accesses, transfers, receives, sends, etc.) quotes (rates, auction information, etc.) to/from a private computer network (system; Column 1, Lines 42-68; Column 2, Lines 3-28; Figures 4-12).

Regarding Claim 84 Barni et al. teach automatically generating and sending offers to users electronically (e.g. email; Column 6, Lines 14-17; Column 7, Lines 4-11 and 38-53).

Barni et al. does not expressly teach automatically generating purchase orders as claimed.

Sheehan et al. teach generating and sending offers (tender offers, bids, etc.) and purchase orders to sellers electronically (via an electronic data interchange, network, email, etc.), for the purposes of synchronizing auction transactions with other company purchasing, logistics and/or other enterprise systems (Paragraphs 0021, 0025).

It would have been obvious to one skilled in the art at the time of the invention that the transportation marketplace system and method as taught by Barni et al. would have benefited from interacting with a plurality of external systems including but not limited to billing/accounting (purchasing) systems in view of the teachings of Sheehan et al.; the resultant system synchronizing auction transactions with other company purchasing and/or logistic systems (Sheehan et al.: Paragraphs 0021, 0025).

Regarding Claim 85 Barni et al. teach a transportation marketplace system and method wherein the system comprises one or more systems to facilitate various services including but not limited to accounting/billing (Column 4, Lines 5-8).

Barni et al does not expressly teach that the system interacts with external (private) billing systems as claimed.

Sheehan teach integrating (linking, interacting, synchronizing) with external systems in an analogous art of auction systems and methods for the purposes of synchronizing auction transactions with other company purchasing and/or logistic systems (Paragraphs 0021, 0025).

It would have been obvious to one skilled in the art at the time of the invention that the transportation marketplace system and method as taught by Barni et al. would

have benefited from interacting with a plurality of external systems including but not limited to billing/accounting (purchasing) systems in view of the teachings of Sheehan et al.; the resultant system synchronizing auction transactions with other company purchasing and/or logistic systems (Sheehan et al.: Paragraphs 0021, 0025).

Regarding Claim 92 Barni et al. teach a transportation marketplace system and method wherein the electronic market enables only select users (buyers, sellers) access the system and/or submit/accept transportation services (registration; Column 4, 35-42; Column 7, Lines 45-51; Figure 3).

Barni et al. does not expressly teach enabling each seller to publish one or more customer (buyer, user, partner, etc.) catalogs (content, transportation information) that are accessible only to preferred trading partners (customers).

Official notice is taken that providing customer specific catalogs (rate sheets, information, discounts, offers, etc.) is old and very well known in the art and provides a mechanism for businesses to offer selected/special rates, products or the like to specific/designated companies (trading partners).

It would have been obvious to one skilled in the art at the time of the invention that the transportation marketplace system and method as taught by Barni et al. would have benefited from providing customer-specific rates/discounts (e.g. customer specific

catalogs containing customer-specific products, services, etc.) in view of the teachings of official notice; the resultant system enabling businesses to offer selected/special rates/services to designated customers.

Regarding Claims 93 and 95 Barni et al. teach a transportation marketplace system and method wherein:

- the published transportation information (quote, rate, catalogs, etc.) comprise a description of transportation lanes quotes/rates (Abstract; Figures 4, 8, 11);
 - enable users (buyers) to identify (find, search, view, etc.) transportation quotes (rates, capacity, services, etc.) by matching the quotes/information using at least one of (selected from the group consisting of; Abstract; Column 2, Lines 12-25; Column 5, Lines 15-35; Columns 6-7; Figures 4, 8 11):
 - manually reviewing and identifying matched/desired services/quotes; or
 - querying/searching among one or more of the published transportation information and automatically identifying matching services (quotes, information, rates, etc.), reviewing the search results and identifying a desired service (quote, etc.); or
 - searching (browsing) for a desired service by identifying a seller and the services (quote, rate, capacity, etc.) and automatically selecting the best seller.

Regarding Claim 94 Barni et al. teach a transportation marketplace system and method wherein the system automatically generates bid acceptance/confirmation information to both buyers and sellers (carriers, shippers; Column 6, Lines 14-17; Column 7, Lines 4-11 and 38-53).

Barni et al. does not expressly teach the generation of purchase orders for the desired services (transportation, capacity, quote, etc.) based on the identified seller/services as claimed.

Sheehan et al. teach automatically generating purchase orders based on the identified seller/services, in an analogous art of auction systems and methods for the purposes of automating/synchronizing the auctions with other systems (Paragraphs 0021, 0025).

It would have been obvious to one skilled in the art at the time of the invention that the transportation marketplace system and method as taught by Barni et al. would have benefited from automatically generating and sending purchase orders for the negotiated transportation services in view of the teachings of Sheehan et al.; the resultant system enabling users to synchronize the negotiated transportation services with their other enterprise systems (Sheehan et al.: Paragraphs 0021, 0025).

Regarding Claim 96 Barni et al. teach a transportation marketplace system and method comprising (Abstract; Columns 6-7; Figure 1, Element 110; Figures 2-12):

- establishing an auction;
- defining auction parameters (values, variables, conditions, etc.) for transportation services bids (lanes, capacity, etc.);
- notifying (providing, publishing, etc.) users (trading partners) of auctions;
- receiving bids from users; and
- monitoring bids for a winning bid.

Barni et al. does not teach multilevel auctions or designating users as preferred trading partners as claimed.

Sheehan et al. teach a multilevel auction system and method comprising:

- establishing a multilevel private auction format/parameters (settings, definition, information, etc.; Abstract; Paragraphs 0009, 0012, 0027);
- designating (selecting, identifying, etc.) certain buyers and sellers as preferred trading partners (customers, users, etc.) who may bid in any one level of the multilevel private auction (Paragraphs 0008-0009, 0018-0019, 0027);
- starting the first level of the multilevel private auction by (Paragraphs 0020, 0023-0027):
 - notifying (providing, publishing, etc.) designated users (preferred trading partners);

- receiving bids from the designated users;
- monitoring bids for a winning bid; and
- proceeding to the next level of the multilevel private auction, if available, in no winning bid is identified/received.

It would have been obvious to one skilled in the art at the time of the invention that the transportation marketplace system and method as taught by Barni et al. would have benefited from enabling users to conduct multilevel private auctions wherein users designate preferred users (trading partners) for each level of the auction and the having the auction "open up" to a larger set of trading partners if no winning bid is received (i.e. proceeds to next level/round) in view of the teachings of Sheehan et al.; the resultant system enabling users to facilitate pricing discovery and/or higher returns (Sheehan et al.: Paragraph 0027).

Regarding Claim 97 Barni et al. teach a transportation marketplace system and method wherein the auction initiator (user) manually indicates to the system that a winning bid has been received/identified as discussed above.

Barni et al. does not expressly teach that the user manually indicates that a winning bid (offer) has not been received as claimed.

Official notice is taken that having a user indicate that a winning bid has not been received is old and well known in the art as users ultimately decide what constitutes a winning (acceptable) bid.

It would have been obvious to one skilled in the art at the time of the invention that the transportation marketplace system and method as taught by Barni et al. would have benefited from enabling users to indicate that a winning bid has not been received and terminating the auction as a result of that indication in view of the teachings of official notice; the resultant system enabling users to evaluate bids/offers in order to identify/determine winning (acceptable) offers.

Regarding Claim 98 Barni et al. teach a transportation marketplace system and method wherein users are provided a plurality of information including but not limited to bid and/or rate expiration dates/times as well as an indication of the numbers of bids placed (Column 5, Lines 51-63; Figures 10-12).

Barni et al. does not expressly teach indicating that no winning bid has been received is given after the expiration of a set time period as claimed.

Sheehan et al. teach terminating auctions utilizing a plurality of criteria (triggers, indications, etc.) including but not limited to indicating that no winning bid has been received after a given period of time (Paragraphs 0024, 0033) in an analogous art of

auction management, for the purposes of progressing the multilevel auction through the various levels/stages (Paragraphs 0024, 0033, 0035).

It would have been obvious to one skilled in the art at the time of the invention that the transportation marketplace system and method as taught by Barni et al. would have benefited from progressing an auction through the various auction stages/levels based on a plurality of user defined criteria including but not limited to indications that no winning bids (activity) have been received during a specified period of time in view of the teachings of Sheehan et al.; the resultant system enabling the progression of the auction through its various stages/levels based on user defined criteria thereby opening the auction up to a larger number of participants (Sheehan et al.: Paragraph 0027).

Regarding Claim 99 Barni et al. does not teach that a winning bid must meet a pre-defined price/rate as claimed.

Official notice is taken that terminating an auction when bid(s) reach a pre-determined threshold (level, price, rate, criteria, etc.) such as a pre-determined price (strike price, reserve price, minimum bid, etc.) is old and very well known for enabling users to set/defined acceptable auction/offer criteria.

It would have been obvious to one skilled in the art at the time of the invention that the transportation marketplace system and method would have utilized a plurality of

well known auction methods (techniques, types, approaches, etc.) including enabling users to set a pre-determined price (strike price) such that bids meeting this price are accepted and thereby terminate the auction without the need to conduct any further auction levels in view of the teachings of official notice; the resultant system enabling users to define/set acceptable auction/offer criteria.

Regarding Claim 100 Barni et al. does not expressly teach a multilevel auction as claimed.

Sheehan et al. teach a multilevel auction wherein the level of the multilevel private auction is open (available, transformed, etc.) to all users (public), in an analogous art of auction systems and methods for the purposes of enabling designated users special access to goods/services (Paragraphs 0009, 0018, 0023-27, 0033, 0035).

It would have been obvious to one skilled in the art that the transportation marketplace system and method as taught by Barni et al. would have benefited from enabling users to conduct multilevel auctions in view of the teachings of Sheehan et al.; the resultant system enabling auction initiators to allow preferred users special access to auctions (pre-auctions; Sheehan et al.: Paragraphs 0009, 0018).

Regarding Claim 101 Barni et al. does not expressly teach a multilevel auction of designated select users (trading partners) as claimed.

Sheen et al. teach designating users/trading partners for each auction level such that additional users (bidders) are added to each subsequent auction level (i.e. auction scope broadens successively; Paragraphs 0009, 0018-0019, 0026-0027) in an analogous art of auction systems and methods for the purposes of enabling users to sell their goods/services to designated as well as public (unrestricted) users thereby enabling them to control their sales channel (Paragraph 0009).

It would have been obvious to one skilled in the art that the transportation marketplace system and method as taught by Barni et al. would have benefited from enabling users to conduct multilevel auctions wherein permitted users (partners, suppliers, users, vendors, etc.) are designated for each level of the multilevel auction in view of the teachings of Sheehan et al.; the resultant system enabling auction initiators to allow preferred users special access to auctions (pre-auctions) and then offer goods/services not sold in the initial round(s)/level(s) of the auction to a wider/larger number of participants (public auction, unrestricted access, etc.; Sheehan et al.: Paragraphs 0009, 0018).

Regarding Claim 102 Barni et al. teach a transportation marketplace system and method wherein if a winning bid is identified the auction is terminated and an offer (tender offer) is sent (Column 2, Lines 21-25; Column 6, Lines 10-18; Column 7, Lines 2-11 and 45-54).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- King et al., U.S. Patent No. 5,319,542, teach an electronic marketplace comprising public and private catalog management and electronic requisitioning.
- Chou et al., U.S. Patent No. 6,035,289, teach an electronic market for negotiating transportation services (capacity) amongst a plurality of sellers and buyers wherein users publish and access bid/ask information which in turn the system uses to

optimally match buyers and sellers. Chou et al. further teach that shippers present orders to a "few preferred carriers."

- Mori et al., U.S. Patent No. 6,044,363, teach an automated electronic auction market system and method.
- Alaia et al., U.S. Patent No. 6,230,146, teach an online supplier-bidding auction system and method (marketplace, network) wherein buyers create a list of preferred suppliers to invite to auctions (e.g. RFQs).
- Underwood et al., U.S. Patent No. 6,947,906, teach a multilevel private, semiprivate and public auction market (network, portal, marketplace, etc.) system and method wherein auctions are successively held such that only selected/invited users can participate in each level/round of the auction.
- Wellman, Michael, U.S. Patent No. 6,952,682, teaches a system and method for conducting multi-attribute auctions (bids/offers) between a plurality of buyers and sellers in an electronic market.
- Lettich et al., U.S. Patent Publication No. 2002/0049622, teach a business-to-business transportation services exchange (market, marketplace, etc.)
- Goldwerger et al., U.S. Patent Publication No. 2003/0216993, teach a transportation services marketplace wherein buyers/sellers negotiate and execute shipping requirements. Goldwerger et al. further teach that the system and method enables users to rank offers, negotiate contracts and that tender offers are stored in a database.

Art Unit: 3623

- Atkinson et al., U.S. Patent Publication No. 2001/0021923, teach a multi-round auction system and method wherein multiple auction rounds are successively held such that the participants in each round differ from the previous round based on one or more auction rules and/or criteria (e.g. no winning bid received in previous round) thereby enabling auction initiators to "invite" preferred users (trading partners, "preferred suppliers") to each round.

- Schubert et al., WO 02/023287, teach an Internet-based multi-tier reverse auction system and method (marketplace).

- Park et al., WO 01/80111, teach an Internet exchange for transportation (freight, carrier, shipper, logistics, etc.) services wherein the exchange comprises auctions, reverse auction, group auctions and the like.

- Edward, Marien, Structuring the shipper/carrier relationship (July 1995), teaches a method for managing shipper/carrier relationships comprising nine steps wherein steps five through eight comprise: identify potential suppliers, request that select suppliers deliver a request for proposal, analyze the RFP and award the business. More specifically Edward teaches that steps five and six include inviting a select (i.e. preferred) group of carriers to respond to the RFP.

- Dykema, Evie, Consumers Catch Auction Fever (March 1999) teaches the wide spread availability and utilization of Internet auction marketplaces/systems wherein the systems support a plurality of well known auction models including but not limited to reverse, dutch, English, parcel, standard/Chinese as well as private (limited access) auctions.

- Treadweave unveils B2B auctions (January 2000) teaches the commercial availability of a staged (multilevel) auctioning system and method wherein the system starts with a limited/restricted/preferred group of users and then through progressive auction rounds/sessions the audience/participation for the auctions are successively broadened.

- Moai Enables Openship.com (January 2000) teaches an Internet marketplace for transportation services wherein buyers/sellers utilize Moai's electronic auction system to negotiate transportation services. The article further teaches that pre-approved carriers are allowed to bid on postings.

- Kafka, Steven, B2B Auctions Go Beyond Price (May 2000) teaches a plurality of well known and widely available auction marketplaces (B2B exchanges, etc.) wherein the system utilizes a plurality of well known auction/dynamic pricing models including but not limited to reverse, sealed-bid, Japanese and the like. Kafka further teaches the availability of customized invitation lists and preferred bidding status that facilitates private/semiprivate auctions.

- Schatsky et al., Online Auction Platforms (March 2000) teaches the evolution, public use and commercial availability of a plurality of Internet auction systems and methods (portals, marketplaces, software, etc.). Schatsky et al. further teaches the well-known use of product catalogs in ecommerce systems and methods.

- Wurman, Peter et al., The Michigan Internet AuctionBot (1998), teach an online auction system and method wherein an auction initiator can "limit the visibility" of an

Art Unit: 3623

auction to a private group (e.g. preferred suppliers) or integrated as part of a public catalog.

- Kumar, Manoj et al., Internet Auctions (August/September 1998), teach an Internet based business-to-business auction system and method wherein the system supports a plurality of auction types including but not limited to multiple round sealed bid auctions. Kumar et al. further teach that the auction system and method integrates with backend systems (e.g. ERP) to support/automate a plurality of well known business activities such as procurement, sales, invoicing, payments, and the like. Kumar et al. further teach that auction participants (users) receive a plurality of notifications and that those notifications are specific to the user and/or type of auction being held.

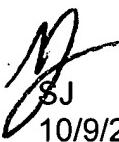
- Moai Technologies Introduces New Category of Business-to-Business Auction Software that enables "Virtual Private Marketplaces" (March 1998) teaches the commercial availability of an Internet-based auction marketplace system and method comprising the ability to automate negotiations between preferred/select trading partners. The article further teaches that the online auction system and method is "complementary to online catalogs."

- Hioraki, Kikuchi et al., Multi-Round Anonymous Auction Protocols (April 1999), teaches a system and method for conducting multi-round public and private (secret) auctions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott L. Jarrett whose telephone number is (571) 272-7033. The examiner can normally be reached on Monday-Friday, 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hafiz Tariq can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


SJ
10/9/2005


SUSANNA M. DIAZ
PRIMARY EXAMINER


Art 3623